

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JONATHAN MCDONALD,

Petitioner,

v.

DOUG WADDINGTON,

Respondent.

Case No. C05-5283RBL

ORDER OF TRANSFER

Before the court is a petition for habeas corpus relief. The petitioner is currently incarcerated at the Stafford Creek Correction Center. The petition attacks the legality of a conviction imposed by the Washington State Superior Court for King County. For reasons which follow, this court transfers this case to the U.S. District Court for Western District of Washington in Seattle.

An application for a writ of habeas corpus may be filed either in the district court wherein the petitioner is in custody or in the district court within the State court which convicted and sentenced the petitioner; such district courts have concurrent jurisdiction to entertain the application. 28 U.S.C. § 2241(d); Fest v. Bartee, 804 F.2d 559, 560 (9th Cir. 1986). "The physical presence of the prisoner is not necessary for habeas corpus jurisdiction as long as the court has jurisdiction over the person holding the prisoner." Fest, 804 F.2d at 560, *citing*, Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484, 494-95 (1973). To determine where the action should be located the court should review traditional venue considerations. Id.

In the present case petitioner is challenging his second degree felon murder conviction in King

1 County, Washington. Petitioner was sentenced to one hundred seventy months of incarceration by the
2 King County Superior Court. Based on these facts and in the interest of justice, the petition should be
3 transferred to the U.S. District Court located in Seattle.

4 The Clerk of this court is hereby directed to transfer this case to the U.S. District Court for
5 Western District of Washington in Seattle.

6 DATED this 9th day of May, 2005.

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9 RONALD B. LEIGHTON
10 UNITED STATES DISTRICT JUDGE
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13 Recommended for entry this
14 9th day of May, 2005.
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16 /s/ J. Kelley Arnold

17 J. Kelley Arnold

18 United States Magistrate Judge
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